

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILTON SAMUELS,

Plaintiff,

-v-

UNITED STATES OF AMERICA,

Defendant.

UNITED STATES OF AMERICA

-v-

MILTON SAMUELS,

Defendant.

USDS SDNY
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DATE FILED: 1/28/2020

No. 20-cv-510 (RJS)

ORDER

No. 08-cr-789-6 (RJS)

RICHARD J. SULLIVAN, Circuit Judge:

Milton Samuels, currently incarcerated in the Federal Correction Institution in Fort Dix, New Jersey, brings this *pro se* submission, which is styled as a “Request for Inquiry into Involuntary Servitude For Violation of Section(1) of the 13th Amendment.” Specifically, Samuels requests that the Court “conduct a full inquiry or examination into the investigation and prosecution of [his] case for the possibility of violations of federal rules of law and constitutional guarantees.” Samuels cites no authority granting this Court the power to conduct a freestanding inquiry into the investigation and prosecution of his long-closed criminal case. Accordingly, Samuels’s motion is DENIED.

To the extent that Samuels wishes to challenge his conviction and sentence, the proper vehicle is a 28 U.S.C. § 2255 motion. However, Samuels already challenged his conviction and sentence by filing a § 2255 motion. The Court denied that motion on the merits, and the Second Circuit dismissed the appeal of that denial. *See McClean v. United States*, Nos. 12-cv-1954, 12-cv-7362, 12-cv-7559, 08-cr-789, 2016 WL 3910664 (S.D.N.Y. July 13, 2016), *appeal dismissed*, No. 16-3023 (2d Cir. Nov. 30, 2016). Therefore, to file a second or successive § 2255 motion in this Court, Samuels must receive authorization from the United States Court of Appeals for the Second Circuit by filing a request directly to that court. 28 U.S.C. §§ 2244(b)(3)(A), 2255(h).

Accordingly, IT IS HEREBY ORDERED THAT Samuels's motion is DENIED. Because the motion makes no substantial showing of a denial of a constitutional right, the Court will not issue a certificate of appealability. *See* 28 U.S.C. § 2253(c)(2); *see also Love v. McCray*, 413 F.3d 192, 195 (2d Cir. 2005). Furthermore, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962). The Clerk of Court is respectfully directed to mail a copy of this order to Samuels, to note service on the docket in both cases, and to close case No. 20-cv-510 (RJS).

SO ORDERED.

Dated: January 28, 2020
New York, New York


RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation